

# YOUTH SERVICES POLICY

<b>Title:</b> Prison Rape Elimination Act (PREA) <b>Next Annual Review Date:</b> 08/08/2014	<b>Type:</b> C. Field Operations <b>Sub Type:</b> 2. Security <b>Number:</b> C.2.11
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<b>Approved By:</b> Mary L. Livers, Deputy Secretary	<b>Date of Approval:</b> 08/08/2013

## I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

## II. PURPOSE: [115.312 (a)]

To adopt the national U.S. Department of Justice (DOJ) "Prison Rape Elimination Act" (PREA) Standards and to establish procedures for implementing PREA within YS secure care and contract facilities.

## III. APPLICABILITY:

All YS employees, contract service providers, volunteers, and youth under the supervision of or in the custody of YS.

## IV. DEFINITIONS:

**Abusive Sexual Contacts** - Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

**Agency** – For purposes of this policy, Agency refers to Youth Services and the Office of Juvenile Justice.

**Contract Facilities** - For purposes of this policy, contract facilities are non-secure facilities that are contracted by YS to house and provide care and treatment to youth who are in the custody or under the supervision of YS.

**Gender Identity** - A person's internal, deeply felt sense of male or female, regardless of the person's sex at birth.

**Intersex** – A person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

**LGBTIQ** - Youth who have identified themselves as lesbian, gay, bisexual or transgender, intersex or questioning their sexual orientation, or gender nonconforming youth.

**Multidisciplinary Team (MDT)** - A team consisting of representatives from at least three disciplines, (e.g., treatment, custody, education, mental health or medical) responsible for developing comprehensive case plans for youth.

**Nonconsensual Sexual Acts** - Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and 1) Contact between the penis and the vagina or the penis and the anus, however slight; or 2) Contact between the mouth and the penis, vagina, or anus; or 3) Penetration of the anal or genital opening of another person by hand, finger, or other object.

**Operations Group** - An administrative group that provides oversight to Agency operations. Membership includes the Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Assistant Secretary, Regional Directors, Director of Treatment and Rehabilitation, Family Liaison, Director of Education, General Counsel, and other persons as requested by the group. This group makes recommendations to the Deputy Secretary of YS.

**PREA Steering Committee** - A committee of executive and senior management appointed by the Deputy Secretary to meet quarterly to discuss PREA related issues and incidents, initiating organizational improvement as necessary.

**Prison Rape Elimination Act (PREA)** - An Act signed into law in September 2003. This legislation requires the Bureau of Justice Statistics (BJS) to initiate new national data collections on the incidence and prevalence of sexual violence within correctional facilities. PREA defines four categories of sexual abuse for purposes of data collection: abusive sexual contacts, nonconsensual sexual acts, staff sexual harassment and staff sexual misconduct.

**Qualified Agency Staff Member (QASM) / Qualified Community-Based Staff Member (QCSM)** – For purposes of this policy a QASM/QCSM shall be an individual who has been screened for appropriateness to serve in the role of a victim advocate for a youth experiencing sexual assault and has received education concerning sexual assault and forensic examination issues in general.

**Rape Crisis Center** – For purposes of this policy a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages.

**Sexual Assault** - Includes all acts of a sexual nature that constitute Nonconsensual Sexual Acts and Abusive Sexual Contacts. Sexual assault also includes sexual coercion and sexual solicitation as defined in this policy.

**Sexual Assault Response Team (SART)** -. The SART is composed of one representative from Mental Health, Medical, Investigations, and the facility Administration. The SART shall respond immediately to the needs of an alleged victim.

**Sexual Assault Liaison** - A management staff designated by the Facility Director or Contract Provider to coordinate response, reporting, monitoring and follow-up to incidents of youth sexual assault within that facility. The Sexual Assault Liaison will be assigned as the Sexual Assault Response Team (SART) Leader at that location.

**Sexual Coercion** - The use of debt, threats of physical harm, peer pressure, deceit, personal favors, or positional authority to force or lure sexual favors.

**Sexual Victim** - Any youth who through documented evidence has suffered sexual coercion, sexual solicitation or sexual assault by another youth or a staff member during the immediate incarceration.

**Sexually Aggressive Youth** - A youth with a case history of committing sexual assault or coercing sex in exchange for protection or other favors within the secure care setting.

**Staff Sexual Harassment** - Repeated verbal statements or comments of a sexual nature to youth by staff, visitors or Agency representatives, including: 1) demeaning references to gender or derogatory comments about body or clothing; 2) profane or obscene language or gestures; or 3) staff engaging in inappropriate conversation about sexual behavior with youth, outside of the scope of their normal duties.

**Staff Sexual Misconduct** - Any behavior or act of a sexual nature directed toward youth by staff, visitors or Agency representatives. Romantic relationships between staff and youth are included as misconduct. Consensual or nonconsensual sexual acts include:

1. Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or
2. Completed, attempted, threatened, or requested sexual acts; or
3. Occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

**Training Records Entry Completed (TREC)** - The database used to track training hours of all YS employees.

**Unusual Occurrence Report (UOR)** - A UOR is a document that must be completed by any staff involved in a use of physical interventions incident, any staff that witnesses such an incident, any staff that is in the area of such an incident, and any staff who is told by a youth of such an incident. A UOR must also be completed by staff witnessing any occurrence out of the ordinary, regardless of the magnitude of the occurrence.

**Vulnerable Youth** - A youth who is at high risk to become a victim of sexual assault by another youth due to characteristics related to age, physical stature, criminal history, and physical or mental disabilities, or past history of being victimized.

**Youth/Juvenile** - Any person under the jurisdiction of the Louisiana Department of Public Safety and Corrections, Youth Services, regardless of age or reason for placement.

**Youth-On-Youth Sexual Violence** - All occurrences of nonconsensual sexual acts and abusive sexual contacts involving youths in non-secure custody.

**YS Employee** - For purposes of this policy, a YS employee includes, contract providers and volunteers.

**V. POLICY:** [115.311 (a)]

This policy sets out the PREA Standards as adopted in 2012 by the U.S. DOJ in Section VI. through Section XX., and incorporates and/or references more specific YS Policies. Youth Services is committed to:

- A zero-tolerance standard for all forms of sexual abuse and sexual harassment;
- Prevention planning through appropriate hiring and staffing of facilities, including specific treatment for youth with disabilities and protections for viewing and searches;
- Through assessment, room assignment and feasible facility design/improvements, identifying opportunities to separate and monitor sexually aggressive youth and potential victims;

- Ensuring appropriate services are provided where abuse is alleged; through continuing education of staff and youth, increasing awareness of safe reporting mechanisms and available services to victims, thereby, creating facility cultures that discourage sexual aggression, abuse and harassment; and
- Appropriate responses to reporting, including investigations, victim services, discipline of staff and youth for sexual abuse; and data collection.

**VI. PREVENTION PLANNING:**

**A. PREA Coordinator/Compliance Manager [115.311 (b) & (c)]**

1. YS shall employ a PREA coordinator who is responsible for developing, implementing and overseeing PREA compliance Agency wide.
2. Each facility shall designate a PREA compliance manager who shall be responsible for coordinating the facility's PREA compliance efforts.

**B. Staffing Plans / Video Monitoring [115.313 (a), (c) & (d)]**

1. Each facility shall develop, implement, maintain and document a staffing plan that provides adequate levels of staffing and, where appropriate, video monitoring to protect youths from sexual abuse, pursuant to YS Policy No. A.2.14.

Staffing ratios of 1:8 during youth waking hours and 1:16 during sleeping hours are mandatory. Facilities not yet in compliance with these ratios shall be in compliance no later than October 1, 2017.

2. Facilities shall comply with the staffing plan except during limited, distinct circumstances. Deviations from staffing plans shall be fully documented.
3. At least once per year, the agency in consultation with the PREA coordinator, shall assess, determine and document whether adjustments are necessary to the staffing plans and deployment of video monitoring and other monitoring systems for its secure care facilities.

Steps taken to address any identified necessary adjustment to staffing patterns and deployment of monitoring systems shall be documented by the PREA Coordinator and affected facility PREA Compliance Manager for review by the U.S. DOJ.

**C. Rounds by Supervisors [115.313 (e)]**

1. YS Policy and facility Standard Operating Procedures (SOPs) shall implement practices requiring intermediate or higher level supervisors to conduct and document unannounced rounds on all shifts to identify and deter sexual abuse and sexual harassment, pursuant to YS Policy No. C.2.19.
2. YS Policy and Facility SOPs shall prohibit staff from alerting other staff of the occurrence of supervisory rounds unless it is related to legitimate operational functions.

- D. Cross-gender Viewing and Searches [115.315 (a)-(e)]
1. Cross-gender strip searches or visual body cavity searches are prohibited except in exigent circumstances or when performed by medical practitioners. Pursuant to YS Policy Nos. B.2.20 and C.2.3, when cross-gender searches occur they must be justified and documented on an Unusual Occurrence Report (UOR) by the employee conducting the search and a witness to the search.
  2. Cross-gender pat-down searches are prohibited unless exigent circumstances are present, and shall be justified and documented on a UOR when they occur.
  3. YS policies and secure care facility SOPs shall be implemented that enable youths to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing private body parts except in exigent circumstances or when such viewing is incidental to routine cell checks.
  4. YS policies, facility SOPs and contract facility SOPs shall provide procedures for cross-gender staff entrance into housing areas.
  5. Searches or physical exams of transgender or intersex youth shall not be utilized solely to determine genital status. Alternative methods of determining status if necessary shall be utilized.
  6. Staff shall be appropriately trained on conducting cross-gender pat-down searches, and searches of transgender and intersex youth pursuant to YS Policy Nos. A.2.24 and B.2.20.
- E. Youth with Disabilities and Limited English Proficiency [115.316 (a) & (c)]
1. Youth with disabilities shall have an equal opportunity to participate in and benefit from all aspects of YS's efforts to prevent, detect, and respond to injurious sexual conduct and sexual harassment.
  2. When necessary to ensure effective communication, youth with hearing deficits shall be provided an interpreter. Youth interpreters, readers or assistants shall not be relied upon except where an extended delay in obtaining an effective interpreter could compromise a youth's safety, the performance of first-responder duties under US DOJ PREA Standard 115.364, or the investigation of the youth's allegations.
  3. Written materials shall be provided in a format which ensures effective communication with youth with disabilities.
  4. YS' is not mandated to take steps which would result in a fundamental alteration in a service program or activity or in undue financial and administrative burdens in accordance with Title II of the American with Disabilities Act (ADA).
- F. Hiring and Promotion Decisions Regarding Job Applicants, Employees and Contractors Who May Have Contact with Custody Youth [115.317 (a) – (h)]
1. Job applicants and contractors shall NOT be hired or services contracted for if the applicant/contractor has:

- a. Engaged in sexual abuse in a prison, jail, lockup, community confinement facility or juvenile facility or other institution as defined in federal law. (42 USC 1997)
    - b. Been convicted of engaging or attempting to engage in sexual activity in the community using force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
    - c. Been civilly or administratively adjudicated to have engaged in any activity described in subparagraph b. above.
  2. Incidents of sexual harassment shall be considered when making decisions to hire, promote or enter into contracts.
  3. Prior to hiring new employees, the following checks shall occur:
    - a. The Unit's HR Liaison shall perform a criminal background check pursuant to YS Policy No. A.2.18;
    - b. PSS HR shall consult the Department of Children and Family Services (DCFS) child abuse registry; and
    - c. Consistent with law, PSS HR shall additionally use their best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or resignation during a pending investigation of allegation of sexual abuse.
  4. Criminal background checks of current employees and contractors shall be conducted at least every five (5) years if a system to otherwise capture the information is not available.
  5. Job applicants and employees shall be asked directly about previous misconduct described in Section VI. F.1. (a.- c.) above in written applications, interviews for hiring or promotions, and in any interviews or written self evaluations conducted as part of reviews of current employees.
  6. Employees have a continuing duty to disclose any such misconduct; material omissions or providing materially false information shall be grounds for termination.
  7. Employees designated to respond to requests from an institutional employer for whom a former employee has applied to work, shall provide information on substantiated allegations of sexual abuse or sexual harassment involving the former employee.
- G. Upgrades to Facilities and Technology [115.318 (a) & (b)]
1. All designing, acquiring, renovations, additions, and new construction shall be of a design that facilitates direct contact between youth and staff, while considering the agency's ability to protect youth from sexual abuse.
  2. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect youth from sexual abuse.

**VII. RESPONSIVE PLANNING:**

A. Evidence Protocol and Forensic Medical Examinations [115.321 (a) & (b)]

1. Investigative Services (IS) shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions, pursuant to YS Policy Nos. A.1.4 and C.4.6.
2. The protocol shall be developmentally appropriate for youth and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. DOJ's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.

B. Forensic Medical Examinations [115.321 (c)]

Youth who experience sexual abuse shall have access to forensic medical examinations, without financial cost where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible.

If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The CHP shall document its efforts to provide SAFEs or SANEs, and forward that documentation to the youth's Case Manager for entry into JETS.

C. Victim Services [115.321 (d) & (e)]

1. Every attempt shall be made to make a victim advocate from a rape crisis center available to the victim. If a rape crisis center is not available to provide victim advocate services, a qualified staff member from a community-based organization or a qualified Agency staff member shall be made available to provide these services.
2. Efforts to secure services from rape crisis centers shall be documented by the CHP. A rape crisis center that is part of a governmental unit may be utilized as long as the center is not part of the criminal justice system (such as a law enforcement Agency), and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. Documented efforts shall be forwarded by the CHP to the youth's Case Manager for entry into JETS.
3. As requested by the victim, the victim advocate, qualified Agency staff member or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews, and shall provide emotional support, crisis intervention information, and referrals.
4. YS and contractors in the community shall implement protocols for immediate and on-going victim services in response to allegations of sexual abuse. The YS developed "Sexual Assault Response Team (SART) Protocol", shall be utilized within the secure care facilities [see Attachment C.2.11 (d)], to ensure comprehensive and immediate response to victim needs. The SART shall meet within 72 hours of receipt of an allegation of youth sexual abuse.

5. If a secure care youth feels more comfortable with a staff member who is not a member of the SART, that staff may be appointed to the youth's SART team by the administrative level SART team member.
6. It is the responsibility of the SART to discuss the needs and welfare of the victim and make recommendations concerning his/her safety, as well as the medical and mental health needs, including any necessary follow-up. Responsibilities of the SART also include making recommendations concerning the perpetrator and other involved youth. The SART recommendations shall be forwarded to the Facility Director and appropriate Regional Director for review and approval within three (3) working days of the SART meeting.
7. The SART shall meet quarterly to review overall team responses and review areas of possible improvement, including suggested revisions in YS policy and protocol.

D. Outside Law Enforcement Agency Conducting Investigations [115.321(g)]

If an outside law enforcement Agency investigates allegations of sexual abuse, the Agency shall be requested to follow the requirements of Section XIII. A.- C. above.

E. Referrals of Allegations for Investigation [115.322 (a) – (c)]

1. An administrative or criminal investigation shall be completed for all allegations of sexual abuse and sexual harassment pursuant to YS Policy No. A.1.4.
2. Allegations of sexual abuse or sexual harassment shall be referred to IS for investigation.
3. The IS policy shall be published on the Office of Juvenile Justice (OJJ) website at <http://www.ojj.la.gov/>.
4. Sexual abuse and sexual harassment referrals shall be documented by IS.
5. Criminal investigations shall be conducted by local law enforcement per local protocol, and supported by IS pursuant to YS policy and protocol.

## VIII. TRAINING

A. Employees [115.331 (a) – (d)]

1. All staff shall be trained on how to recognize the signs of injurious sexual conduct, and understand their responsibility in the detection, prevention, investigation, and reporting of sexual abuse and sexual harassment during new employee orientation and annual in-service training.
2. Training topics shall consist of, but not be limited to, the following:
  - a. The policy of zero-tolerance for sexual abuse and sexual harassment;
  - b. Fulfilling their responsibilities regarding sexual abuse and sexual harassment prevention, detection and reporting, including relevant laws related to mandatory reporting of sexual abuse to outside authorities;
  - c. Youths' right to be free from sexual abuse and sexual harassment;
  - d. Youth's and employee's right to be free from retaliation for reporting sexual abuse and sexual harassment;

- e. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
  - f. Common reactions of juvenile victims of sexual abuse and sexual harassment, including isolation, depression, etc.;
  - g. Detecting and responding to signs of threatened and actual sexual abuse; sexually aggressive behavior and how to distinguish between consensual sexual contact and sexual abuse between youth;
  - h. Avoiding inappropriate relationships with youth;
  - i. Communicating effectively and professionally with youth, including those who are lesbian, gay, bisexual, transgender, intersex, questioning (LGBTIQ), or gender nonconforming;
  - j. Relevant laws regarding the applicable age of consent; and
  - k. Awareness and enforcing of policies and procedures regarding sexual conduct of youth.
- B. All current employees who have not received such training shall be trained within one (1) year of August 20, 2012, the effective date of the U.S. DOJ PREA Standards, and each employee shall be provided with refresher training on current sexual abuse and sexual harassment policies and procedures pursuant to YS Policy No. A.2.24.
- C. Training shall be tailored to the unique needs and attributes of youth of juvenile facilities and to the gender of the youth at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male youths to a facility that houses only female youths, or vice versa.
- D. Employee attendance and understanding of the training provided shall be documented, through employee signature on the "Staff Confirmation of Receipt" [see Attachment C.2.11 (b)] , as well entry into the "Training Records Entry Database" (TREC) pursuant to YS Policy No. A.2.24. Signed receipts shall be forwarded to PSS HR to be filed in the employee's personnel file.
- E. The Regional Directors shall be responsible for implementing the training noted in Section VIII. A. above in the OJJ contracted residential facilities.
- F. The Staff Development Director shall be responsible for the development and dissemination of lesson plans for new employee orientation and annual in-service training.
- G. The Director of Treatment and Rehabilitation shall be responsible for providing special training in regard to victim response, as necessary, to members of the SART.
- H. Volunteer and Contractor [115.332 (a) – (c)]
- 1. Volunteers and contractors who have contact with youths shall be trained on their responsibilities under the Agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with youth, but all volunteers and contractors who have contact with youth shall be notified of the Agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

2. Documentation confirming that volunteers and contractors understand the training received above in (A) (2) above, shall be confirmed through their signature on the "Staff Confirmation of Receipt" [see Attachment C.2.11 (c)].

Volunteer's receipts shall be forwarded to the facility's Volunteer Coordinator for filing.

Contractor receipts shall be forwarded to the unit's designated training staff.

I. Specialized Training; Investigators [115.334 (a) & (b)]

1. Members of the SART shall receive special training in regard to victim response as necessary, from the Director of Treatment and Rehabilitation and/or other resources as available.
2. Investigator Training
  - a. Investigators shall have received training in conducting sex abuse investigations in confinement settings. Required training shall be documented in TREC.
  - b. Specialized training shall include techniques for interviewing juvenile sexual abuse victims, proper use of *Miranda* and *Garrity* warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral, pursuant to YS Policy No. A.1.4.

J. Specialized Training; Medical and Mental Health Care [115.335 (a) – (d)]

1. All full- and part-time medical and mental health care practitioners who work regularly in its facilities shall be trained in the methods of and procedures to:
  - a. Detecting and assessing signs of sexual abuse and sexual harassment;
  - b. Preserving physical evidence of sexual abuse;
  - c. Responding effectively and professionally to juvenile victims of sexual abuse and sexual harassment; and
  - d. Reporting allegations or suspicions of sexual abuse and sexual harassment.
2. Documentation that medical and mental health practitioners have received the training referenced in J. 1. above from the Agency shall be documented through signature on the "Staff Confirmation of Receipt" [see Attachment C.2.11 (b)], pursuant to YS Policy No. A.2.24. The receipts shall be maintained in the CHP employee's file with a copy forwarded to the unit's designated training staff for filing.

Documentation that the training referenced in J.1. above was received elsewhere shall be maintained in the CHP employee's file with a copy forwarded to the unit's designated training staff for filing.

3. Medical and mental health care practitioners shall also receive the training mandated for employees under Section VIII. A. above, or for contractors and volunteers under Section VIII. H. above, depending upon the practitioner's status at the Agency. Receipts shall be maintained in the CHP employee's file with a copy forwarded to the unit's designated training staff for filing.

**IX. YOUTH ORIENTATION / EDUCATION:**

- A. Upon admission to a YS secure care or contracted facility, youth shall receive: [115.333 (a) – (f)]
  1. Information in an age appropriate fashion explaining the zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.
  2. Within two (2) days, but no more than ten (10) days of direct admission, comprehensive age-appropriate education shall be provided to youth by showing the OJJ designed power point presentation regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and Agency policies and procedures for responding to such incidents pursuant to YS Policy No. B.2.3. The power point shall include information to teach youth how to:
    - a. Avoid risky situations related to sexual assault;
    - b. Safely report rape or sexually inappropriate behavior;
    - c. Obtain counseling services and/or medical assistance if victimized; and
    - d. Evaluate the risks and potential consequences for engaging in any type of sexual contact while in the facility.
  3. Probation and parole staff shall show the power point presentation to all pre secure or pre non-secure youth. Additionally, both secure care and probation and parole staff shall process with youth the information that was provided in the power point, and document these occurrences in JETS.
  4. Upon transfer to a different facility, youth shall be briefed on the presentation described in IX (A) (2) upon admission.
  5. The Agency shall provide youth education in formats accessible to all youths, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to youths who have limited reading skills.
  6. The Agency shall maintain documentation of a youth's participation in these education sessions.

Secure care staff shall ensure the youth signs a "Youth Confirmation of Receipt" [see Attachment C.2.11 (a)] during the orientation/admission process, and files it in the youth's hard copy Master Record under Clip VIII.

For youth placed in contract facilities, Probation and Parole Officer/Juvenile (PPO/J) staff shall ensure the youth signs the "Youth Confirmation of Receipt", which shall be placed in the youth's case record maintained in the local Regional Office under Clip IV.

7. In addition to providing such education, the Agency shall ensure that key information is continuously and readily available or visible to youths through posters, youth handbooks or other written formats.

**X. ASSESSMENT AND HOUSING:**

**A. Screening for Risk of Sexual Victimization and Abusiveness [115.341 (a) – (e)]**

1. Obtaining information from youth.
  - a. Within 72 hours of the youth's arrival at the facility and periodically throughout a youth's confinement, the Agency shall obtain and use information about each youth's personal history and behavior to reduce the risk of sexual abuse by or upon a youth.
  - b. Such assessments shall be conducted using an objective screening instrument.
  - c. At a minimum, the Agency shall attempt to ascertain information about:
    - 1) Prior sexual victimization or abusiveness;
    - 2) Any gender nonconforming appearance or manner or identification as LGBTIQ, and whether the youths may therefore be vulnerable to sexual abuse;
    - 3) Current charges and offense history;
    - 4) Age;
    - 5) Level of emotional and cognitive development;
    - 6) Physical size and stature;
    - 7) Mental illness or mental disabilities;
    - 8) Intellectual, physical or developmental disabilities;
    - 9) Youth's own perception of vulnerability; and
    - 10) Any other specific information about individual youth that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other youths.
  - d. The information outlined in (A) (1) (c) above shall be ascertained through conversations with the youth during the direct admission process; medical and mental health screenings; classification assessments; and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the youth's files.
  - e. The Agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the youth's detriment by staff or other youths.

**B. Sexually Aggressive Youth**

1. Upon direct admission, staff shall evaluate all youth specifically to determine if there are indications that a youth is prone to victimize other youth, especially in regard to sexual behavior, including the following:
  - a. History of sexually aggressive behavior;
  - b. History of violence, especially if related to a sex offense with same gender victim;

- c. History of uncontrollable anger;
- d. Anti-social attitudes indicative of sexually aggressive behavior;
- e. Number of victims;
- f. Duration of sexual abusive behavior;
- g. Demonstration of empathy for others or remorse for inappropriate behaviors; and
- h. Youth's willingness to change his behavior.

C. JETS PREA Alert

- 1. Youth, whether victim or perpetrator, involved in any sexual act prior to or after placement in a YS secure or non-secure facility shall have a PREA Alert placed in JETS to ensure proper placement, monitoring and services are provided as needed.
- 2. Alerts shall be entered into JETS as follows:
  - a. The assigned PPO shall place the PREA Alert for youth under their supervision based upon their social history; or
  - b. The youth's secure care Case Manager shall place PREA Alert based on the social history if an Alert was not entered during the Direct Admission process; or
  - c. Medical staff shall immediately communicate to a youth's Case Manager the knowledge of a youth's involvement in a PREA incident. The Case Manager shall be responsible for placing a PREA Alert based on the obtained information; or
  - d. The Director of IS shall place the PREA Alert for youth in a secure care facility as appropriate upon completion of an investigation report.
- 3. The person entering the PREA Alert into JETS shall enter a description of the alert. (The description is required for the PREA Alert to be saved in the JETS system.)

D. Placement of Youth in Housing, Bed, Program, Education, and Work Assignments  
[115.342 (a) – (i)]

- 1. Facility Directors and Contract providers shall use all information initially obtained in Section X. above and subsequently obtained to make housing, bed, program, education, and work assignments for youth with the goal of keeping all youth safe and free from sexual abuse.
- 2. Youth shall be reevaluated by their assigned Case Manager during the "Monthly Assessment of IIP Progress" pursuant to YS Policy No. B.2.2, to determine if the housing area assignment continues to meet their needs.
- 3. Youth may be isolated from others only as a last resort when less restrictive measures are inadequate to keep all youth safe, and then only until an alternative means of keeping all youth safe can be arranged, pursuant to YS Policy Nos. B.2.8.

4. During any period of isolation youth shall not be denied daily large-muscle exercise and any legally required educational programming or special education services. Youth shall receive daily visits from a medical or mental health care clinician. Youth shall also have access to other programs and work opportunities to the extent possible. (Refer to YS Policy No. B.2.8)
5. If a youth is placed pursuant to (D) (3) above, the facility shall clearly document the basis for the facility's concern for the youth's safety and why no alternative means of separation can be arranged. The facility shall afford each such youth a review to determine whether there is a continuing need for separation from the general population, pursuant to YS Policy Nos. B.2.8.
6. LGBTIQ youth shall not be placed in particular housing, bed or other assignments solely on the basis of such identification or status, nor shall LGBTIQ identification or status be considered as an indicator of likelihood of being sexually abusive.
7. In assigning a transgender or intersex youth to a facility for male or female youth, and in making other housing and programming assignments, the Agency shall consider on a case-by-case basis whether a placement would ensure the youth's health and safety, and whether the placement would present management or security problems.
8. Placement and programming assignments for each transgender or intersex youth shall be reassessed at least twice each year to review any threats to safety experienced by the youth.
9. A transgender or intersex youth's views with respect to his/her safety shall be given serious consideration.
10. Transgender and intersex youth shall be given the opportunity to shower separately from other youth.

## **XI. REPORTING**

### **A. Youth Reporting [115.351 (a) – (e)]**

1. Access to services for victims of sexual abuse shall not be dependent on the victim's willingness to report or provide testimony. Reporting by youth shall be encouraged, as it is critical to the timely delivery of necessary services to the victim and to holding perpetrators accountable.
2. Staff shall encourage youth to report when either of the following conditions exists:
  - a. The youth has been or is currently a victim of sexual abuse and sexual harassment while in YS custody; or
  - b. The youth has knowledge of sexual abuse and sexual harassment having occurred or currently occurring in a YS secure care or contract facility.
3. There shall be multiple internal methods provided for youth to privately report sexual abuse and sexual harassment, retaliation by other youths or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

4. Youth shall be provided at least one method to report abuse or harassment to a public or private entity or office that is not part of OJJ and that is able to receive and immediately forward youth reports of sexual abuse and sexual harassment to Agency officials, allowing the youth to remain anonymous upon request.
5. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.
6. The facility shall provide youth with access to tools necessary to make a written report.
7. Staff shall be able to privately report sexual abuse and sexual harassment of youth by calling the IS Hotline at 1-800-626-1430, and reporting an allegation directly to IS.

B. Exhaustion of Administrative Remedies [115.352 (b) – (f)]

1. Pursuant to YS Policy No. B.5.3, the Administrative Remedy Procedure (ARP) shall not contain a time limit on when a youth may submit a grievance regarding an allegation of sexual abuse. The Agency may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.
2. A youth shall not be required to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
3. The provisions of subparagraphs (1) and (2) above do not restrict the Agency's ability to defend against a law suit filed by a youth on the ground that the applicable statute of limitations has expired.
4. The Agency shall ensure that a youth who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and such grievance is not referred to a staff member who is the subject of the complaint.
5. The ARP shall require a final Agency decision on the merits of any portion of a grievance alleging sexual abuse be issued within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time used by the youth in preparing any administrative appeal.
6. Pursuant to B.5.3, the ARP may provide for a request for an extension of time by the Facility Director to respond in Step One with the approval of the Deputy Secretary, if the normal time period for response is insufficient to make an appropriate decision. The Facility Director shall notify the youth in writing of any such extension and provide a date by which a decision will be made.
7. At any level of the administrative process, including the final level, if the youth does not receive a response within the time allotted for reply, including any properly noticed extension, the youth may consider the absence of a response to be a denial at that level.
8. Third parties, including fellow youth, staff members, family members, attorneys, and outside advocates, shall be permitted to assist youth in filing requests for an ARP relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of youths.

9. If a third party, other than a parent or legal guardian, files such a request on behalf of a youth, the ARP may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the ARP. If the youth declines to have the request processed on his or her behalf, the Agency shall document the youth's decision.
10. If an attorney files an ARP on behalf of the youth, a letter of representation shall be required.
11. A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.
12. The ARP shall contain procedures for the filing of an emergency grievance alleging that a youth is subject to a substantial risk of imminent sexual abuse.
  - a. After receiving an emergency grievance alleging a youth is subject to a substantial risk of imminent sexual abuse, the Agency shall require the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) be immediately forwarded to the appropriate Regional Director for immediate corrective action, an initial response within 48 hours, and a final Agency decision within five (5) calendar days.
  - b. The initial response and final Agency decision shall document the Agency's findings as to whether the youth is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
  - c. The Agency may discipline a youth for filing a grievance related to alleged sexual abuse only where the Agency demonstrates that the youth filed the grievance in bad faith, pursuant to YS Policy No. B.5.1.

C. Youth Access to Outside Support Services and Legal Representation [115.353 (a) – (d)]

1. Each facility shall provide youth with access to outside victim advocates for emotional support services related to sexual abuse, by providing, posting, or otherwise making accessible mailing addresses and telephone numbers, including toll free hotline numbers where available, of local, state or national victim advocacy or rape crisis organizations. The facility shall enable reasonable communication between youths and these organizations and agencies, in as confidential a manner as possible.
2. The facility shall inform youths, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. The Agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide youths with confidential emotional support services related to sexual abuse. The Agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

4. The facility shall also provide youth with reasonable and confidential access to their attorneys or other legal representative and reasonable access to parents or legal guardians.

D. Third Party Reporting [115.354]

Third parties shall have the ability to file reports of sexual abuse and sexual harassment. Policies containing information on the methods by which a third party can report sexual abuse and sexual harassment on behalf of a youth shall be available on the Office of Juvenile Justice (OJJ) website at <http://www.ojj.la.gov/>.

## XII. RESPONSE FOLLOWING YOUTH REPORT

A. Staff and Agency Reporting Duties [115.361 (a), (b), (e) & (f)]

1. All staff shall report immediately any knowledge, suspicion or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is a part of the Agency pursuant to YS Policy Nos. C.4.3 and D.10.29.
2. Staff receiving reports of sexual assault or sexual harassment shall immediately contact his/her supervisor/manager and in the case of a contract program, the supervising PPO.

Staff may also use the IS Hotline by calling 1-800-626-1430 to report the incident.

3. The supervisor/manager and/or supervising PPO shall immediately notify the Facility Director/Regional Manager,
4. Upon receiving any allegation of sexual abuse or sexual harassment, including third-party and anonymous complaints, the Facility Director/Regional Manager shall promptly report the allegation to the appropriate Regional Director and the Director of IS. The Regional Director shall notify the Assistant Secretary, Chief of Operations, and the Deputy Secretary pursuant to YS Policy No. C.5.2. The Facility Director / Regional Manager shall also notify the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
5. Pursuant to YS Policy No. C.2.6 and facility SOPs, secure care facility staff shall initiate a UOR [refer to YS Policy No. C.2.6 (b)], and notify a facility IS Investigator, or if unavailable a Central Office supervisory investigator. Law enforcement is to be notified as appropriate and in accordance with local procedures.
6. Pursuant to YS Policy No. C.4.3, a "Notification and Report of Abuse/Neglect Occurrences" shall be filed with the local office of the Child Protection Unit, Department of Child and Family Services (DCFS) by the youth's Case Manager.

Pursuant to DYS Policy No. 10.29, the supervising PPO/J shall notify the parish Office of Children's Services of the incident(s).

7. Where confidentiality of the report is a concern, staff may report the information directly to IS within 24 hours of receipt of the information. Staff shall complete a UOR which shall be retrieved by the IS office located on the facility grounds. The IS investigator shall document the information in a manner so as to preserve confidentiality and report the information to the Director of IS and the appropriate Regional Director.
8. Staff shall report retaliation against youth or staff who reported such an incident of sexual abuse or sexual harassment; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
9. All staff shall comply with mandatory child abuse reporting laws pursuant to YS Policy No. C.4.3, and Federal and State Law.
10. Failure of staff to report sexual abuse and sexual harassment and/or comply with Mandatory Reporting provisions above shall result in disciplinary action.
11. Except for reporting to supervisors/ Facility Directors / Central Office management and designated State or local services agencies as provided for in YS Policy No. C.4.3, staff are prohibited from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, to make treatment, investigation, and other security and management decisions.
12. Medical and mental health practitioners shall report sexual abuse in accordance with contract provisions and mandatory child abuse reporting laws.  
  
Such practitioners shall be required to inform youths at the initiation of services of their duty to report and the limitations of confidentiality.
13. If a reporting youth asks staff that an allegation of sexual abuse or sexual harassment remains confidential, he is to be advised the allegation will be reported pursuant to mandatory reporting laws and law enforcement as appropriate.
14. If the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.
15. The Facility Director shall also report the allegation to the appropriate juvenile judge, the juvenile's attorney, or other legal representative of record within 14 days of receiving the allegation.

B. Agency Protection Duties [115.362]

1. Immediate action shall be taken to protect a youth when the Agency learns that a youth is subject to a substantial risk of imminent sexual abuse.
2. Upon receiving staff reports of sexual abuse or sexual harassment, the supervisor/manager or supervising PPO/J shall immediately notify the Facility Director/Regional Manager and initiate action to reduce or eliminate immediate harm to the victim or reporter, and damage to any potential crime scenes and evidence.

C. Reporting to Other Confinement Facilities [115.363 (a) – (d)]

1. Upon receiving an allegation that a youth was sexually abused while confined at another YS secure care facility or another Agency facility, the Facility Director who received the allegation shall notify the Facility Director or appropriate office of the Agency where the alleged abuse occurred, and shall also notify the appropriate Regional Director, and IS office located on the facility grounds, and Central Office IS where appropriate.
2. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation and the notification documented.
3. The Facility Director/ IS investigator who receives such notification shall ensure that the allegation is investigated in accordance with PREA standards.

D. Staff First Responder Duties [115.364 (a) & (b)]

1. Upon learning of an allegation that a youth was sexually abused, the first staff member to respond to the report shall be required to:
  - a. Separate the alleged victim and alleged abuser;
  - b. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
  - c. If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the *alleged victim* not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  - d. If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the *alleged abuser* not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating
2. If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

E. Coordinated Response [115.365]

The Agency in concert with the YS secure care facilities shall develop a written facility plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

F. Preservation of Ability to Protect Youths From Contact With Abusers [115.366]

1. No collective bargaining agreement or other agreement can be entered into that would limit the Agency's ability to remove alleged staff sexual abusers from contact with youth pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
2. Nothing in this section shall restrict the entering into or renewal of agreements that govern:

- a. The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of this policy regarding evidentiary standards for administrative proceeding.
- b. Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

G. Protection Against Retaliation [115.367 (a) – (f)]

1. Youth and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other youth or staff.
2. Multiple protection measures shall be employed, such as housing changes or transfers for youth victims or abusers, removal of alleged staff or youth abusers from contact with victims, and emotional support services for youth or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
3. For at least 90 days following a report of sexual abuse, IS shall monitor the conduct or treatment of youth or staff who reported the sexual abuse, and of youth who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by youth or staff, and shall act promptly to remedy any such retaliation.

Monitoring by IS shall include:

- a. Review of UORs;
- b. Youth violation reports;
- c. Housing or Program changes of relevant youth;
- d. Negative performance reviews or reassignments of pertinent staff  
Periodic status checks of youth; and
- e. Follow up discussions with youth reports and victims of sexual assault, staff reporters, housing unit and treatment staff.

Monitoring shall be documented in the IS case file, pursuant to established procedures in YS Policy No. A.1.4, *Investigative Services Handbook*.

Monitoring shall continue for 30 additional day periods until there is no indications of the continuing need to do so.

4. If any other individual who cooperates with an investigation expresses a fear of retaliation, the Agency shall take appropriate measures to protect that individual against retaliation.
5. The Agency's obligation to monitor shall terminate if IS determines that the allegation is unfounded.

H. Post-Allegation Protective Custody [115.368]

Any use of segregated housing to protect a youth who is alleged to have suffered sexual abuse shall be subject to the requirements of Section X. above.

### **XIII. INVESTIGATIONS**

#### **A. Criminal and Administrative Agency Investigations [115.371 (a) – (k) & (m)]**

1. IS conducted investigations into allegations of sexual abuse and sexual harassment shall be done promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports pursuant to YS Policy No. A.1.4.
2. During interviews of youth pursuant to an investigation, if the investigator is asked to keep the information confidential he shall inform the youth of the limits of confidentiality.
3. Where sexual abuse is alleged, the Agency shall use investigators who have received special training in sexual abuse investigations involving juvenile victims pursuant to Section VIII. I. above.
4. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
5. The Agency shall not terminate an investigation solely because the source of the allegation recants the allegation.
6. When the quality of evidence appears to support criminal prosecution, the Agency shall conduct compelled interviews, only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution as appropriate.
7. The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as youth or staff. A youth who alleges sexual abuse shall not be compelled to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation.
8. Administrative investigations:
  - a. Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
  - b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
9. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible.
10. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

11. The Agency shall retain all written reports referenced in subparagraphs 7 and 8 of this section for as long as the alleged abuser is incarcerated or employed by the Agency, plus five (5) years, unless the abuse was committed by a youth and applicable law requires a shorter period of retention.
12. The departure of the alleged abuser or victim from the employment or control of the facility or Agency shall not provide a basis for terminating an investigation.
13. When local law enforcement investigates sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

B. Evidentiary Standard for Administrative Investigations [115.372]

In determining whether allegations of sexual abuse or sexual harassment are substantiated, IS shall not use a standard higher than a preponderance of the evidence.

C. Reporting to Youth [115.373 (a) – (f)]

1. Following an investigation into a youth's allegation of sexual abuse suffered in a secure facility, IS shall inform the youth as to whether the allegation has been substantiated, unsubstantiated or unfounded.
2. If the Agency did not conduct the investigation, it shall request the relevant information from the investigative Agency in order to inform the youth.
3. Following a youth's allegation that a *staff member* has sexually abused the youth, IS shall inform the youth (except where IS has found the allegation to be unfounded) whenever:
  - a. The staff member is no longer posted within the youth's unit;
  - b. The staff member is no longer employed at the facility;
  - c. The Agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - d. The Agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.
4. Following a youth's allegation that he or she has been sexually abused by *another youth*, IS shall inform the alleged victim whenever:
  - a. The Agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
  - b. The Agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
5. All such notifications or attempted notifications shall be documented.
6. The obligation to report under this paragraph shall terminate when the youth is released from the Agency's custody.

#### **XIV. DISCIPLINE**

**A. Disciplinary Sanctions for Staff [115.376 (a) – (d)]**

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating Agency sexual abuse or sexual harassment policies pursuant to YS Policy No. A.2.1.
2. Termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.
3. Disciplinary sanctions for violations of Agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
4. All terminations for violations of Agency sexual abuse or sexual harassment policies, or resignations by staff who resigned to avoid termination in accordance with Civil Service Rules, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

**B. Corrective Action for Contractors and Volunteers [115.377 (a) & (b)]**

1. Any contractor or volunteer who engages in sexual abuse at a minimum shall be prohibited from contact with youths and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.
2. The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with youths, in the case of any other violation of Agency sexual abuse or sexual harassment policies by a contractor or volunteer.

**C. Interventions and Disciplinary Sanctions for Youth [115.378 (a) – (g)]**

1. Pursuant to YS Policy No. B.5.1, a youth may be subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the youth engaged in youth-on-youth sexual abuse, or following a criminal finding of guilt for youth-on-youth sexual abuse
2. Any disciplinary sanctions shall be commensurate with the nature and circumstances of the abuse committed, the youth's disciplinary history, and the sanctions imposed for comparable offenses by other youth with similar histories.
3. In the event a disciplinary sanction results in the placement of a youth in the Behavior Intervention (BI) Unit, the youth shall not be denied daily large-muscle exercise or access to any legally required educational programming or special education services. Youth in BI shall receive daily visits from a medical or mental health care clinician. Youths shall also have access to other programs and work opportunities to the extent possible.
4. The disciplinary process shall consider whether a youth's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

5. The facility shall consider whether to offer the offending youth participation in such therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. Participation in such interventions may be required as a condition of access to any rewards-based behavior management system or other behavior-based incentives, but not as a condition to access to general programming or education.
6. The Agency may discipline a youth for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
7. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
8. All sexual activity between youths is prohibited. The Agency may, at its discretion, discipline youths for such activity. However, such activity shall not be deemed to constitute sexual abuse if it determines that the activity is not coerced.

**XV. MEDICAL AND MENTAL CARE:**

- A. Medical and Mental Health Screenings; History of Sexual Abuse [115.381 (a) – (d)]
  1. If the screening outlined in Section X. above indicates that a youth has experienced prior *sexual victimization*, whether it occurred in an institutional setting or in the community, staff shall ensure that the youth is offered a follow-up meeting with a *medical or mental health practitioner* within 14 days of the direct admission screening.
  2. If the screening pursuant to Section X. above indicates that a youth has previously *perpetrated sexual abuse*, whether it occurred in an institutional setting or in the community, staff shall ensure that the youth is offered a follow-up meeting with a *mental health practitioner* within 14 days of the direct admission screening.
  3. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
  4. Medical and mental health practitioners shall obtain an informed consent from youth before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the youth is under the age of 18.
- B. Access to Emergency Medical and Mental Health Services [115.382 (a) – (d)]
  1. Youth who are victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.

2. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff first responders shall take preliminary steps to protect the victim pursuant to Section XII. above, and shall immediately notify the appropriate medical and mental health practitioners.
  3. Youth victims of sexual abuse while incarcerated shall be offered timely information about, and timely access to, emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
  4. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- C. Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers [115.383 (a) – (h)]
1. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all youth who have been victimized by sexual abuse regardless of where it occurred (any prison, jail, lockup or juvenile facility).
  2. The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to or placement in other facilities, or their release from custody.
  3. The facility shall provide such victims with medical and mental health services consistent with the community level of care.
  4. Youth victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
  5. If pregnancy results from sexually abusive vaginal penetration while incarcerated, such victims shall receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services.
  6. Youth victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
  7. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
  8. The facility shall attempt to conduct a mental health evaluation of all known youth-on-youth abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

## **XVI. DATA COLLECTION AND REVIEW**

- A. YS shall establish data collection systems to accurately track sexual abuse/sexual harassment and annually incorporate 'lessons learned' into improved operations and services toward a sustainable zero-tolerance standard through the PREA Steering Committee.

Contract facilities shall be required to report PREA data in their annual report, as specified in the “2013 Standard Operating Procedures for Non-Secure Care”.

B. Sexual Abuse Incident Reviews [115.386 (a) – (f)]

1. The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded pursuant to YS Policy No. A.1.4.
2. Such review shall occur within 30 days of the conclusion of the investigation.
3. The review team shall include appropriate Regional Director, PREA Compliance Manager, upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.
4. The review team shall:
  - a. Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;
  - b. Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; LGBTIQ identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
  - c. Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
  - d. Assess the adequacy of staffing levels in that area during different shifts;
  - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  - f. Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to subparagraphs (4)(a)-(4)(e) of this section, and any recommendations for improvement and submit such report to the Facility Director, PREA Compliance Manager, and PREA Coordinator;
  - g. An Action Plan with appropriate timelines shall accompany any recommendations for improvement; and
  - h. The facility shall implement any recommendations for improvement, or shall document its reasons for not doing so.

C. Data Collection [115.387 (a) – (f)]

1. The Agency shall collect data which can be utilized to reduce the risk of sexual abuse and sexual harassment occurring within its secure care and contract facilities as noted below.
  - a. The Agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
  - b. The Agency shall aggregate the incident-based sexual abuse data at least annually.

- c. The incident-based data collected shall include the data necessary to answer all questions from the most recent version of the "Survey of Sexual Violence" conducted by the U.S. DOJ.
  - d. The Agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
  - e. The Agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its youths pursuant to YS Policy Nos. A.4.2 and A.4.3.
  - f. Upon request, all such data from the previous calendar year shall be provided to the U.S. DOJ no later than June 30th.
2. The data outlined in (C) (1) (a-f) shall be compiled by Central Office IS into monthly and annual reports for submission to the Deputy Secretary, and shall:
- a. Establish a baseline of data documenting the prevalence of incidents;
  - b. Provide information to the PREA Steering Committee concerning where efforts are needed for the improvement of facility operations;
  - c. Document accountability of those who perpetrate by tracking:
    - i. the outcome of all cases, including disposition, that were referred to the District Attorney;
    - ii. the status of IS conducted investigations concerning suspected incidents of injurious sexual conduct;
  - d. Document follow-up care to victims as outlined in this policy;
  - e. Document action by secure care or contract facilities' Multidisciplinary Teams (MDT) concerning the case management of youth designated as sexually aggressive or vulnerable; and
  - f. Document information collected directly from the youth population by means of surveys administered quarterly through a random youth selection process by Continuous Quality Improvement Services (CQIS); along with surveys collected when a youth is released from a YS secure care facility or steps down to a non-secure program from secure care.

The data collected relates to the prevalence of injurious sexual conduct within the secure care or contract facilities, including the circumstances that contribute to this kind of behavior, in order to provide insight into potential strategies for its reduction or elimination. (not sure how theirs are collected or the timeframe?)

C. Data Review for Corrective Action [115.388 (a) – (d)]

- 1. The Agency shall review data collected and aggregated pursuant to (B)(1)-(B)(6) of this Section in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including:
  - a. Identifying problem areas;

- b. Taking corrective action on an ongoing basis; and
    - c. Preparing an annual report of its findings and corrective actions for each facility, as well as the Agency as a whole.
  2. Such report shall include a comparison of the current year's data and corrective actions with those from prior years, and shall provide an assessment of the Agency's progress in addressing sexual abuse.
  3. The Agency's report shall be approved by the Deputy Secretary and made readily available to the public through the Office of Juvenile Justice (OJJ) website at <http://www.ojj.la.gov/>.
  4. The Agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.
- D. Data Storage, Publication, and Destruction [115.389 (a) – (d)]
  1. The Agency shall ensure that data collected pursuant to Paragraph B of this Section are securely retained.
  2. After removal of personal identifiers, the Agency shall make all aggregated sexual abuse data from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its OJJ website.
  3. The Agency shall maintain sexual abuse data collected pursuant to Paragraph B of this Section for at least ten (10) years after the date of its initial collection unless Federal, State, or local law requires otherwise.

## **XVII. AUDITING AND CORRECTIVE ACTION**

- A. Frequency and Scope of Audits [115:401 (a) – (o)]
  1. During the three-year period starting on August 20, 2013, and during each three-year period thereafter, each facility operated by the Agency, or by a private organization on behalf of the Agency, shall be audited at least once by the U.S. DOJ.
  2. During each one-year period starting on August 20, 2013, at least one-third of each facility type operated by the Agency, or by a private organization on behalf of the Agency, shall be audited by the U.S. DOJ.
  3. The U.S. DOJ may send a recommendation to an Agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the Agency with PREA-related issues.
  4. The audit instrument issued by the U.S. DOJ will provide guidance on the conduct of and contents of the audit.
  5. The burden of demonstrating compliance with the standards shall be on the Agency.

6. The U.S. DOJ auditor is required to:
    - a. Review all relevant Agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type;
    - b. Review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period;
    - c. Access and observe all areas of the audited facilities;
    - d. Retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the U.S. DOJ upon request;
    - e. Interview a representative sample of youth, staff, supervisors, and administrators;
    - f. Review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited; and
    - g. Attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.
  7. The facility shall permit:
    - a. The auditor to request and receive copies of any relevant documents, including electronically stored information.
    - b. The auditor to conduct private interviews with youth.
    - c. Youth to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.
- B. Auditor Qualifications [115.402 (a) – (d)]
1. An audit shall be conducted by:
    - a. A member of a correctional monitoring body that is not part of, or under the authority of, the Agency (but may be part of, or authorized by, the relevant State or local government);
    - b. A member of an auditing entity such as an inspector general's or ombudsperson's office that is external to the Agency; or
    - c. Other outside individuals with relevant experience.
  2. All auditors shall be certified by the U.S. DOJ, which shall develop and issue procedures regarding the certification process, including training requirements.
  3. An auditor who has received financial compensation from the Agency being audited within the three (3) years prior to the Agency's retention of the auditor (except for compensation received for conducting prior PREA audits) is prohibited from conducting an audit.
  4. The Agency shall not employ, contract with, or otherwise financially compensate the auditor for three (3) years subsequent to the Agency's retention of the auditor, with the exception of contracting for subsequent PREA audits.

C. Audit Contents and Findings [115.403 (a) – (f)]

1. Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the Agency under review.
2. Audit reports shall state whether Agency-wide policies and procedures comply with relevant PREA standards.
3. For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings:
  - a. Exceeds Standard (substantially exceeds requirement of standard);
  - b. Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); or
  - c. Does Not Meet Standard (requires corrective action).
4. The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level.
5. Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility, and shall include recommendations for any required corrective action.
6. Auditors shall redact any personally identifiable youth or staff information from their reports, but shall provide such information to the Agency upon request, and may provide such information to the U.S. DOJ.
7. The Agency shall ensure that the auditor's final report is published on the Agency's website.

D. Audit Corrective Action Plan [115.404 (a) – (e)]

1. A finding of "Does Not Meet Standard" with one (1) or more standards shall trigger a 180-day corrective action period.
2. The auditor and the Agency shall jointly develop a corrective action plan to achieve compliance.
3. The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
4. After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
5. If the Agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

E. Audit Appeals [115.405 (a) – (c)]

1. An Agency may lodge an appeal with the U.S. DOJ regarding any specific audit finding that it believes to be incorrect. Such appeal must be lodged within 90 days of the auditor's final determination.
2. If the U.S. DOJ determines that the Agency has stated good cause for a re-evaluation, the Agency may commission a re-audit by an auditor mutually agreed upon by the U.S. DOJ and the Agency. The Agency shall bear the costs of this re-audit.
3. The findings of the re-audit shall be considered final.

**XVIII. STATE COMPLIANCE:**

A. State Determination and Certification of Full Compliance [115.501 (a) & (b)]

1. In determining pursuant to 42 U.S.C. 15607(c)(2) whether the State is in full compliance with the PREA standards, the Governor shall consider the results of the most recent Agency audits.
2. The Governor's certification shall apply to all facilities in the State under the operational control of the State's executive branch, including facilities operated by private entities on behalf of the State's executive branch.

**XIX. SECURE CARE AND CONTRACT FACILITIES RESPONSIBILITIES:**

Information provided in confidential communications to staff shall be shared consistent with, and in accordance to, the standards required by state statute, professional licensure, and ethical standards.

**XX. DATA COLLECTION AND COMPILATION BY IS:**

- A. YS shall collect information related to the purposes outlined under Section XIV. e. of this policy; specifically to gather data that will help reduce the risk of injurious sexual conduct occurring within a YS secure care or contract facility.
- B. YS shall identify the specific data that must be collected to comply with the reporting requirements of the U.S. DOJ "Survey on Sexual Violence" and the "PREA Commission Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities".
- C. This data shall be compiled by the Director of IS into monthly and annual reports for submission to the Deputy Secretary. The purpose of these reports is to:
  1. Establish a baseline of data documenting the prevalence of incidents involving injurious sexual conduct, as gleaned from all available sources.
  2. Provide information to the PREA Steering Committee concerning where efforts are needed for the improvement of facility operations related to the reduction of injurious sexual conduct.
  3. Document that there is accountability for those who perpetrate injurious sexual conduct by tracking:

- a. The outcome of all injurious sexual conduct cases that were referred to the District Attorney, including the disposition of each case;
- b. The status of investigations conducted by IS concerning suspected incidents of injurious sexual conduct;
- c. Referrals of injurious sexual conduct cases for prosecution, including the status and outcome of such efforts within the judicial system;
- d. Documentation that victims of injurious sexual conduct received appropriate follow-up care as outlined in this policy;
- e. Documented action by secure care or contract facilities Multidisciplinary Team (MDT) concerning the case management of youth designated as sexually aggressive or vulnerable; and
- f. Information collected directly from the youth population as outlined in Section XVI. C. above.

**XXI. DATA REVIEW BY PREA STEERING COMMITTEE:**

- A. The PREA Steering Committee shall schedule a yearly conference of members of the Operations Group to:
  1. Review the data that has been collected pursuant to this policy;
  2. Make recommendations regarding needed changes to this policy; and
  3. Make recommendations to the Deputy Secretary regarding any changes needed in secure care facility operations and/or the SOP for contract facilities.
- B. This does not preclude any member of the Operations Group from calling for a conference at any time to make recommendations regarding changes to this policy, operational changes at YS secure facilities or the SOPs for contract facilities.

**Previous Regulation/Policy Number:** C.2.11

**Previous Effective Date:** 03/11/2011



**Attachments/References:** C.2.11 (a) Youth Confirmation of Receipt 0813.docx



C.2.11 (b) Staff Confirmation of Receipt 0813.docx



C.2.11 (c) Contract Provider Volunteer Confirmation of Receipt 0813.docx



C.2.11 (d) SART Team Protocol 0813.doc



C.2.11 References 0813.docx